

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

M & M AFFORDABLE PLUMBING, INC.)	
)	
and)	Case 13-CA-121459
)	
JEFFREY CEREN, an Individual.)	

**RESPONDENT’S EXCEPTIONS TO THE ADMINISTRATIVE
LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

Pursuant to Section 102.46 of the National Labor Relations Board’s Rules and Regulations, Respondent, M & M AFFORDABLE PLUMBING, INC., by and through its attorneys GRIFFIN | WILLIAMS LLP, hereby submits the following exceptions to the recommended Decision and Order of Administrative Law Judge Melissa M. Olivero:¹

EXCEPTIONS

1. M & M Affordable Plumbing, Inc. (“MM” or “Respondent”) excepts to the ALJ’s determination that Jeffrey Ceren was not a managerial employee on the grounds that it is contrary to the recorded testimony and case law. (JD: 12:5-15).
2. MM excepts to the ALJ’s determination that Jeffrey Ceren was discharged because he was unable to obtain a union withdrawal card on the grounds that it is contrary to the recorded testimony. (JD: 7:46-47).
3. MM excepts to the ALJ’s determination that MM hired, employed and discharged Jeffrey Ceren on the grounds that it is contrary to the recorded testimony. (JD 4:15-22, fn. 6 & 11:35-37).

¹ Throughout these exceptions and Respondent’s supporting brief, citations to the records shall be as follows: the ALJ’s decision shall be “JD [Page]:[Line]”; the hearing transcript shall be “Tr. [Page]”; the General Counsel’s exhibits shall be “GCX [Number]”; and Respondent’s exhibits shall be “RX [Number].”

4. Jeffrey Ceren's employment with MM was conditioned on his withdrawal from the Union on the grounds that it is contrary to the recorded testimony. (JD 9:1-18).
5. MM excepts to the ALJ's determination to credit the testimony of Jeffrey Ceren despite contradictions thereto in his own testimony and his past actions on the grounds that it is not contradicted by the testimony of another witness. (JD 7:19-30).
6. MM excepts to the ALJ's determination that the fact that estimating was outside of the occupational jurisdiction of the subject collective-bargaining agreements has no bearing on this case on the grounds that it is contrary to the recorded testimony. (JD 12:28-38).
7. MM excepts to the ALJ's determination that the General Counsel demonstrated that MM harbored antiunion animus on the grounds that it is contrary to the recorded testimony. (JD 9:40-41).
8. MM excepts to the ALJ's determination that MM did not show it would have discharged Jeffrey Ceren in the absence of his union activities on the grounds that it is contrary to the recorded testimony. (JD 10:37-43).
9. MM excepts to the ALJ's decision to analyze the case under the single-motive analysis, rather than the dual-motive analysis of *Wright Line*, 251 NLRB 1083 (1980) as contrary to the recorded testimony and case law. (JD 8:5-10).
10. MM excepts to the ALJ's Conclusion of Law that Respondent violated Section 8(a)(3) and (1) of the National Labor Relations Act on the grounds that it is contrary to the recorded testimony and case law. (JD 13:28).
11. MM excepts to the ALJ's proposed remedy which is premised on an erroneous finding that MM violated Section 8(a)(3) and (1) of the National Labor Relations Act. (JD 13-14:35-10).
12. MM excepts to the recommended Order, including the Appendix, which are premised on an

erroneous finding that MM violated Section 8(a)(3) and (1) of the National Labor Relations Act. (JD 14-15:14-24).

RELIEF REQUESTED

For all the reasons set forth above and in its supporting brief filed herewith, Respondent, M & M Affordable Plumbing, Inc. respectfully request that the Board dismiss the Complaint in its entirety.

Respectfully Submitted,

M & M AFFORDABLE PLUMBING, INC.

By: /s/ Joshua M. Feagans
One of Its Attorneys

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STATEMENT OF SERVICE

I, the undersigned attorney, hereby certify that I caused the foregoing **Respondent's Exceptions to the Administrative Law Judge's Recommended Decision and Order** to be electronically filed with the National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570-0001, using the E-Filing Program and served the following parties in the manner indicated, in accordance with Section 102.114(i) of the Rules and Regulations, by electronic mail before 11:59 p.m. EST on December 17, 2014:

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